

REMARKS

Claim 1 has been amended. Claims 1-7 remain pending in the application.

The amendment to claim 1 is supported by the application as filed and does not present new matter. See; e.g., p. 1, line 15 (streamline processing); p. 1, lines 24-27 (prior art technique of freezing product to accommodate higher moisture contents and prevent rapid aging); p. 1, lines 26-27 (describing problems associated with thawing frozen cheese); p. 2, lines 2-8 (fresh, not frozen; streamlined; fresh cheese has early melt); p. 3, lines 20-25 (describing continuous processing of curd); p. 6, lines 34-35 (no intermediate packaging or cold storage is required as in a traditional pasta filata process); p. 8, lines 17-18 (without having to be frozen; early melt).

The Applicants respectfully request reconsideration of the rejection in view of the above amendment and following remarks, and respectfully submit that the application is in condition for allowance.

I. Independent Claim 1 and Dependent Claims 2-7 Novel Over Thakar.

Claims 1-7 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,475,538 to Thakar *et al.* ("Thakar"). Under 35 U.S.C. §102(e), a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. MPEP §2131. The Office Action relies upon Thakar as supporting the rejection. The Applicants respectfully traverse the rejection. However, in order to expedite prosecution of the application, Applicants offer the above amendments to claim 1 and the following remarks.

Claim 1 of the subject application calls for a method for making a fresh cheese and steps of

- pasteurizing and acidifying one or more dairy components to obtain a cheese dairy product;
- coagulating the cheese dairy product to form a coagulum comprising curd and whey;
- cutting the coagulum and removing the whey thereby leaving the curd;
- heating the curd using steam and kneading the curd to produce a fibrous mass.

Claim 1 also calls for the coagulating, cutting, heating and kneading steps being performed without intermediate freezing, cold storage or packing (emphasis added). In other words, Applicants describe and claim a continuous process, in contrast to the discontinuous batch process described in Thakar that is interrupted by an intermediate step of storing or freezing base curd.

More particularly, Thakar describes a process that is essentially the opposite of Applicants' claim 1 since Thakar explains that base curd is stored in containers, e.g., for significant periods of time, until it is needed for the production of the final mozzarella cheese. (Thakar, col. 4, lines 40-44; Figure 1 (emphasis added). Thus, the resulting mozzarella cheese is not "fresh" cheese.

Thakar further explains that "[w]hen it is desired to prepare the final cheese, the base curd is removed from the containers, ground into small pieces, and placed in a suitable blender; a ribbon or similar blender is generally preferred...to form a "partially standardized base curd." (Thakar, col. 4, lines 55-67) (emphasis added). The partially standardized base curd is then cooked in a cooker or cooker/stretcher (preferably in a lay-down cooker). (Thakar, col. 5, lines 1-9).

Thakar continues to describe storing the curd in the middle of the production process provides distinct advantages. In particular, Thakar explains that:

"[o]ne advantage of the present invention is that cheese base curd may be stored for extended period under frozen or refrigerated conditions until, at the appropriate time, it is further processed to produce mozzarella cheese products, including natural mozzarella cheese. This is an economic advantage, as curd may be produced at periods of the year where, for example, starting materials are readily available or production facilities are available [sic], and resulting curd converted to cheese at other times such as for, example, when the demand for mozzarella cheese is high or production facilities are available. Moreover, standardization of the fat, salt, moisture, protein, pH, and other cheese attributes in the later stages of the manufacturing process as provided for in this invention also allows for a more economical usage of raw materials in the finished product. The process permits the production of curd, and its usage at times when (1) the base curd may be most economically produced and then stored under frozen or refrigerated conditions; (2) other components such as fat, salt, protein, and the like are most economical; and (3) production of mozzarella cheese is most in demand by the consumer." (Thakar, col. 2, lines 26-46) (emphasis added).

Limitations directed to "intermediate" curd storage also appear in the claims of the Thakar patent. For example, claim 1 of Thakar calls for "(5) storing the base curd under

refrigeration or frozen conditions for a period of time until it is desirable to complete production of the mozzarella cheese, wherein the period of time is at least 14 days" (emphasis added).

Considering the forgoing amendment and remarks, the Applicants respectfully submit that it is clear that Thakar fails to disclose or suggest "the coagulating, cutting, heating and kneading steps being performed without intermediate freezing, cold storage or packing" as called for by claim 1 since Thakar specifically describes an intermediate step of storing base curd in the middle of processing, batch processing of the base curd when it is needed, and the economic advantages resulting from the intermediate storage step. Thus, the Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. §102(e) be withdrawn since Thakar is fatally deficient with respect to amended claim 1.

Further, the Applicants respectfully submit that there would also be no suggestion or motivation to modify the process described in Thakar to derive Applicants' claims since doing so would be contrary to the express teaching of Thakar and negate the specific benefits of an intermediate curd storing step described by Thakar. Further, Thakar teaches away from Applicants claim 1, which calls for processing that is the opposite of that described by Thakar.

Further, the Applicants respectfully submit that dependent claims 2-7, which depend from and incorporate all of the elements and limitations of respective independent claims 1 and add novel and non-obvious limitations thereto, are also patentable over Thakar.

II. Conclusion.

Applicants respectfully request that the application is in condition for allowance and respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues that can be resolved by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

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